**NASDAQ OMX** ℠
**PHLX**

# M E M O R A N D U M

To:             All Members and Member Organizations

Subject:        Amendments to the Fee Schedule

Date:            November 3. 2008

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Pending final approval by the Securities and Exchange Commission, the below price change will be effective for trades settling on or after November 3, 2008:

The qualifying definition for Firm Proprietary and Firm Proprietary Facilitation has been amended. The new definition is as follows:

- For the purpose of this Summary of Equity Option Charges, the Firm / Proprietary comparison or transaction charge applies to member organizations for orders for the proprietary account of any member or non-member broker-dealer that derives more than 35% of its annual, gross revenues from commissions and principal transactions with customers ("35% customer revenue threshold") or member organization firm proprietary orders (marked with an "F" ), except for the orders of joint back-office ("JBO") participants. To qualify for Firm /Proprietary comparison or transaction charges using the 35% customer revenue threshold, member organizations will be required to verify this amount to the Exchange by certifying that they have reached this threshold and by submitting a copy of their annual report, which was prepared in accordance with Generally Accepted Accounting Principles ("GAAP").  In the event that a firm has not been in business for one year, the most recent quarterly reports, prepared in accordance with GAAP, will be accepted.

To ensure your organization receives the Firm Proprietary and Firm Proprietary Facilitation rates as defined on the fee schedule, including the $60,000 "Firm Related" Equity Option and Index Option Cap, please complete and remit the attached certification before Thursday, November 20, 2008.

If you have any questions concerning the above fee modifications, please contact Walt Smith, Vice President, at 215-496-5532.

**FIRM PROPRIETARY/FIRM PROPRIETARY FACILITATION FEE CERTIFICATION FORM**

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**SECTION A**

_____ certifies that **ALL** Firm Proprietary and Firm Proprietary Facilitation orders delivered to the NASDAQ OMX PHLX, Inc. (the "Exchange" or "PHLX") associated with the below listed Exchange account numbers are eligible to receive the transaction and comparison fees associated with Firm Proprietary and Firm Proprietary Facilitation executions as defined in Section B of this certification:

PHLX Account Numbers:

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|---|---|---|
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**SECTION B**
The Firm Proprietary and Firm Proprietary Facilitation comparison or transaction charge applies to member organizations for orders for the proprietary account of any member or non-member broker-dealer that derives more than 35% of its annual, gross revenues from commissions and principal transactions with customers ("35% customer revenue threshold") OR member organization firm proprietary orders (marked with an "F"), **except for the orders of joint back-office ("JBO") participants.** To qualify for Firm Proprietary and Firm Proprietary Facilitation comparison or transaction charges using the 35% customer revenue threshold, member organizations will be required to verify this amount to the Exchange by certifying that they have reached this threshold and by submitting a copy of their annual report, which was prepared in accordance with Generally Accepted Accounting Principles ("GAAP"). In the event that a firm has not been in business for one year, the most recent quarterly reports, prepared in accordance with GAAP, will be accepted.

If you are certifying pursuant to the 35% customer revenue threshold please attach a copy of your most recent annual report.

Please inform the Exchange of any change in status within 20 calendar days of the change. Failure to do so may result in disciplinary action.

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Signature of Authorized Person: _____

Name (Printed): _____

Title: _____

Date: _____

Please deliver the signed certification to the attention of Walt Smith, Vice President, NASDAQ OMX PHLX, Inc., 1900 Market Street, Philadelphia, PA, 19103. Signed copies can be sent via email to Walt.Smith@nasdaqomx.com. Certifications must be submitted on an annual basis by December 31 for the upcoming year.